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OFFICE OF PETITIONS

Art Charen
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Baltimore, MD 21212

(Courtesy Copy)

In re Art Charen et al.
Application No.: 10/767,592
Filed: January 28, 2004
Patent No.: 7,495,571
Issued: February 24, 2009

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: **DECISION DISMISSING**
: **PETITION REQUESTING**
: **CORRECTED PATENT**
:

This is a decision on the June 16, 2009 petition titled "Petition to Correct a Patent Under 37 CFR 1.322(b)" ("the June 16, 2009 petition").

The June 16, 2009 petition is before the Office of Patent Legal Administration (OPLA) for consideration.

The June 16, 2009 petition is **dismissed**.

PERTINENT STATUTE AND REGULATION

35 U.S.C. 254 provides, in pertinent part:

Whenever a mistake in a patent, incurred through the fault of the Patent and Trademark Office, is clearly disclosed by the records of the Office, the Director may issue a certificate of correction stating the fact and nature of such mistake, under seal, without charge, to be recorded in the records of patents. ... The Director may issue a corrected patent without charge in lieu of and with like effect as a certificate of correction.

37 CFR 1.322(b) provides:

If the nature of the mistake on the part of the Office is such that a certificate of correction is deemed inappropriate in form, the Director may issue a corrected patent in lieu thereof as a more appropriate form for certificate of correction, without expense to the patentee.

DECISION

The June 16, 2009 petition seeks correction of U.S. Patent No. 7,495,571 ("the '571 patent"), including correction to the Full Text for the '571 patent in the USPTO Patent Full-Text and Image Database maintained by the Office, because of the misspelled surname of the first named inventor.

Issuance of a corrected patent under 35 U.S.C. 254 and 37 CFR 1.322(b) is reserved for those instances in which the mistake to be corrected in the patent is a mistake on the part of the Office, *and* in which a certificate of correction is deemed inappropriate in form. A certificate of correction is typically appropriate in form where the errors are less than substantially the entire document. In particular, a certificate of correction is the normal mechanism for correcting a patent where, as here, the errors are substantially less than the entire document, i.e., the only identified error in the '571 patent is the surname of the first named inventor on the face of the '571 patent.

Therefore, the June 16, 2009 petition is **dismissed**; a Certificate of Correction issued instead on March 30, 2009, to address the typographical errors identified by petitioner in the March 9, 2009 Certificate of Correction Form PTO-1050.

Any inquiry concerning this decision should be directed to Raul Tamayo, Legal Advisor, at (571) 272-7728.



Brian E. Hanlon
Director
Office of Patent Legal Administration
Office of the Associate Commissioner
for Patent Examination Policy